

STATE OF MICHIGAN  
MICHIGAN DEPARTMENT OF HISTORY, ARTS AND LIBRARIES  
STATE HISTORIC PRESERVATION REVIEW BOARD

COPY

**MENDELSSOHN AUGUSTE,**  
Petitioner,

v

HAL File No. 07-044-HP  
SOAHR Docket No. 2007-1040

**PONTIAC HISTORIC  
DISTRICT COMMISSION,**  
Respondent.

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**FINAL DECISION AND ORDER**

This matter involves an appeal of a decision of the Pontiac Historic District Commission, denying an application by Petitioner Mendelssohn Auguste to install vinyl replacement windows on a house located at 209 Cherokee Street in Pontiac. In addition, the Commission ordered to Mr. Auguste to remove all the vinyl window that he had arranged for a contractor to install on his house. The house is located in the City of Pontiac's Seminole Hills Historic District (District).

The State Historic Preservation Review Board (Board) has jurisdiction to consider this appeal under Section 5(2) of the Local Historic Districts Act (LHDA), 1970 PA 169, MCL 399.205.

At the direction of the Board, the State Office of Administrative Hearings and Rules (SOAHR) conducted an administrative hearing on October 3, 2007, for the purpose of receiving evidence, hearing arguments, and preparing a Proposal for Decision pursuant to Section 81(1) of the Administrative Procedures Act (APA), 1969 PA 306, MCL 24.281.

SOAHR Administrative Law Judge (ALJ) William J. Farmer issued his Proposal for Decision (PFD) in this matter November 29, 2007. True copies of the PFD were mailed to both parties and their attorneys of record, as required by Section 81(1) of the APA, *supra*. The parties were also afforded the opportunity to file exceptions regarding any aspect of the PFD. The Respondent submitted "Exceptions to Recommendations in Mendelssohn v Pontiac Historic District Commission" on December 17, 2007,

The Board considered this appeal, along with the Proposal for Decision, the Respondent's Exceptions and all materials submitted by the parties, at its regularly scheduled meeting conducted on January 18, 2008.

Having considered the Proposal for Decision and the official record made in this matter, the Board voted 8 to 0, with 0 abstention(s), to ratify and adopt the PFD as the Final Decision of the Board in this matter, with the following revision to the third paragraph on page 12 and the deletion of the second paragraph on page 13. The Board also voted to incorporate the PFD into this Final Decision and Order, with the exceptions noted here.

Accordingly, Page 12 of the PFD is amended by inserting the following text at the end of the third paragraph:

\*\*\*The Petitioner was under an obligation to do more than simply rely on his reading of a meeting agenda before acting to install new vinyl windows on his house, which is located in the District. Based on the evidence contained in the official record, it is clear that the Petitioner had ample opportunity and time to ascertain the real facts of approval or denial, but neglected to do so. Hence, the Petitioner cannot defeat the effect of the Commission's decision by urging equitable estoppel. *American Trust Co. v Bergstein*, 246 Mich 527; 224 NW 327 (1929). Furthermore, there is no evidence in the

official record to prove that the Commission itself intentionally or negligently made any representations or took any actions that induced the Petitioner to install vinyl windows or justified that action. Therefore, the Petitioner's request that the Commission should be estopped from requiring him to remove the vinyl windows and replace them with wooden windows comparable to those he removed must fail. *Clarkson v Judges Retirement System*, 173 Mich App 1, 14; 433 NW2d 368 (1988).

In addition, it is clear under section 5(12) of the LHDA, MCL 399.205, that the Commission possesses legal authority to require property owners to remove or replace nonconforming, unapproved and inappropriate changes to the outside of a resource within a historic district. The provision provides:

(12) When work has been done upon a resource without a permit, and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a commission or its agents may enter a property for purposes of this section. (Emphasis added.)

The evidence in the record demonstrates that the Petitioner proceeded to install vinyl windows without obtaining the requisite certificate of appropriateness from the Commission. Based on this, the Commission's order requiring the Petitioner remove

and replace the vinyl windows is supported by the evidence as a valid exercise of its authority under section 5(12) of the LHDA.

In the second paragraph on page 13 of the PFD, the ALJ posits that it would be unconscionable to require the Petitioner to remove the vinyl windows that he had Hanson's install without permission. This paragraph is deleted in its entirety from our decision, because we believe the legal conclusions advanced by the ALJ are unsupported by the facts in the record or the law applicable to this case. Rather, we concur with the contention made by the Commission in its "Exceptions to Recommendations in Mendelssohn v Pontiac Historic District Commission", that "[this] recommendation [of the ALJ] strips the Historic District Commission of all of its authority and contravenes the spirit of both the Local Historic Districts Act and the Secretary of the Interior's Standards for Rehabilitation." Hence, the conclusions advanced by the ALJ are rejected by this Board and are deleted from our Final Decision and Order.

As a final note, we further observe that, according to the ALJ, there were factors that "mitigate in the Petitioner's favor" and therefore the Commission should be estopped from requiring the Petitioner to remove the nonconforming vinyl windows and replace them with wood windows replicating the originals. The ALJ wrote:

The findings which mitigate in the Petitioner's favor are that Hanson's was able to obtain a permit from the City [Building Department] to remove the wooden windows and replace them with vinyl windows and that he is no longer in possession of the wooden windows. \* \* \*

In order for equitable estoppel to arise, some type of negligent or other wrongful action must have taken place by one party that the other party relies on to his or her detriment. There is nothing in the record demonstrating that the Commission did anything wrong. *Clarkson, supra.*

The Petitioner had the duty and the opportunity to ascertain whether his application was denied or approved and failed to do so. The Petitioner did not attend the Commission's hearing where his application was considered, nor did he contact the Commission directly when he allegedly failed to receive notice of its decision. The only action that the Petitioner took to ascertain whether his application had been approved or not was to check the Commission's website. The only arguably relevant record posted to the site was the agenda of the meeting at which the Petitioner's application was considered. The agenda, of course, was written and posted well in advance of the meeting where the decision was made. The website failed to contain any additional information addressing whether Petitioner's application had been approved or denied.

The Petitioner clearly knew that he was required to obtain approval from the Commission before he could install new vinyl windows on this house, otherwise he would not have submitted an application to the Commission for replacement windows made from modern materials. The Petitioner proceeded to enter into an agreement with Hanson's for the installation of vinyl windows without receiving prior approval from the Commission for that work. Since the Petitioner relied on his erroneous belief [that his application had been approved], which belief arose from his own actions rather than those of the Commission, the responsibility and consequences must be borne by him.

Lastly, the fact that a vinyl windows' building permit was obtained on Petitioner's behalf by Hanson's from the Building Department, and not from the Commission, is inconsequential for purposes of this appeal. Any detrimental reliance by or financial harm to the Petitioner based on the erroneous belief that the Building Department had acted for the Commission is not attributable to the Commission.

Having fully considered this matter,

**IT IS ORDERED** the Commission's decision of April 10, 2007 is **AFFIRMED**.

**IT IS FURTHER ORDERED** that the appeal is **DENIED**.

**IT IS FURTHER ORDERED** that the Petitioner shall contact the Commission to determine a time schedule for removal of the vinyl windows and re-installation of historically accurate wooden windows.

**IT IS LASTLY ORDERED** that a copy of this Final Decision and Order shall be transmitted to the parties, and to their attorneys of record, if any, as soon as is practicable.

Dated: \_\_\_\_\_

1-25-08



\_\_\_\_\_  
Dr. Carolyn S. Loeb, President  
State Historic Preservation Review Board

**NOTE:** Section 5(2) of the Local Historic Districts Act provides that an applicant aggrieved by a decision of the State Historic Preservation Review Board may appeal the Board's decision to the circuit court having jurisdiction over the commission whose decision was appealed to the Board. Under section 104(1) of the Administrative Procedures Act, such appeals must be filed with the circuit court within 60 days after the date that notice of the Board's Final Decision and Order is mailed to the parties.

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**STATE OF MICHIGAN**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

**MENDELSSOHN AUGUSTE**

Petitioner,

**V**

Docket No. 2007-1040  
Agency No. 07-44-HP

**PONTIAC HISTORIC DISTRICT  
COMMISSION**

Respondent,

\_\_\_\_\_ /

**PROPOSAL FOR DECISION**

This matter involves an appeal of a Notice of Denial and Order (Notice) of the Pontiac Historic District Commission (the Commission), denying an application to install vinyl replacement windows on the house at 209 Cherokee Street and ordering petitioner to remove the vinyl windows that petitioner has installed. The property is located within the City of Pontiac Seminole Hills Historic District (the district).

The appeal was filed under the provisions of Section 5 (2) of the Local Historic Districts Act (the LHDA).<sup>1</sup> Section 5 (2) provides that an applicant aggrieved by a decision of a historic district commission may appeal to the State

<sup>1</sup> 1970 PA 169, Section 5, MCL 399.205

Historic Preservation Review Board (the Board), an agency of the Michigan Department of History, Arts and Libraries (the Department).

Upon receiving the appeal, the Board directed the State Office of Administrative Hearings and Rules (SOAHR) to conduct an administrative hearing for purposes of accepting evidence, hearing legal arguments, and preparing a "proposal for decision." SOAHR convened a hearing on October 3, 2007, at 575 E. Big Beaver, Suite 120, Troy, Michigan. The hearing was held in accordance with procedures prescribed in Chapter 4 of the Administrative Procedures Act of 1969.<sup>2</sup>

Petitioner Mendelsohn Auguste appeared in those proceedings represented by Attorney at Law David McGruder. Representing the Commission were: Madhu Oberoi, Planning Administrator, City of Pontiac, John Cohassey, Vice-Chairman of the Commission, and Andre Poplar, Commission Representative. Administrative Law Judge William J. Farmer assigned to the case by SOAHR, served as Presiding Officer.

#### **Issues on Appeal**

The Petitioner requests generally that the denial and order of the Commission be reversed and he be allowed to retain the vinyl windows that have been installed at his home. Petitioner further argues that the action of the Commission was arbitrary and capricious and without basis in law and fact and was taken without adequate notice.

The Respondent requests that the Commission's decision be affirmed as the claimant's decision to replace the windows with vinyl was arbitrary and

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<sup>2</sup> 1969 PA 306, Section 71 *et seq.*, MCL 24.271 *et seq.*



usurped the decision of the Commission. At a minimum a decision should be made acknowledging that the Petitioner acted wrongly by replacing the windows in the absence of approval by the Commission.

### **Summary of Evidence**

Under Michigan law applicable to administrative proceedings, a party who stands in the position of an applicant, an appellant or petitioner typically bears the burden of proof. 8 Callaghan's Michigan Pleading and Practice (2d ed), Section 60.48, p 176, *Lafayette Market and Sales Co v City of Detroit*, 43 Mich App 129, 133; 203 NW2d 745 (1972), *Prechel v Dep't of Social Services*, 186 Mich App 547, 549; 465 NW2d 337 (1990). The Petitioner occupies that position in this proceeding and accordingly bears the burden of proof regarding his factual assertions.

#### **A. Petitioner's Evidence**

Section 5 (2) of the LHDA, cited above, indicates that appellants may submit all or part of their evidence in written form. The Petitioner has submitted the purchase agreement for the property at 209 Cherokee, Pontiac, Michigan, dated December 18, 2006; the warranty deed to that property, dated January 31, 2007; the contract to purchase vinyl windows from Hanson's dated February 10, 2007; the estimate from Turner Restoration for purchasing wooden windows, dated April 3, 2007; the Agenda Notice of the April 10, 2007; the Agenda Notice of the April 10, 2007 meeting of the Commission; a City of Pontiac Building Permit dated April 27, 2007; a photograph at the home of 209 Cherokee taken before installation of the vinyl windows; a photograph of the home after the

installation of the vinyl windows. The Petitioner further offered the testimony of Mendelson Auguste.

**B Respondent's Evidence**

The Respondent also submitted evidence in this matter. That evidence consisted of Petitioner's April 4, 2007 letter to the Commission along with quotes for replacing the existing windows; Petitioner's Application for Certificate of Approval to replace existing wooden windows with vinyl windows; photographs of the wooden windows; Madhu Oberoi's April 5, 2007 memorandum to the Commission advising of Petitioner's request to install vinyl windows; photographs of the house after installation of the vinyl windows; minutes of the April 10, 2007 Commission meeting.

The parties also submitted joint exhibits consisting of the April 10, 2007 letter addressed to the Petitioner advising that his request to install vinyl replacement windows was denied by the Commission as being inconsistent with Secretary of Interior Standards; information on how to appeal the Commission decision, and a copy of the Secretary of the Interior's Standards for Rehabilitation. The respondent further offered the testimony of Madhu Oberoi and John Cohassey.

**Findings of Fact**

In light of the evidence admitted into the official hearing record, the facts of this case are found to be as follows:

1. Seminole Hills became a historic district in 1987.
2. Some homes in Seminole Hills have vinyl siding and vinyl windows.

These were installed prior to Seminole Hills becoming a historic district.

3. Petitioner, an account manager lives with his wife and two children, ages 6 and 10 at the home at issue.

4. Petitioner, a first time homeowner, and his family moved into the house at 209 Cherokee in January 2007.

5. The wooden frames of the windows were cracked and Petitioner put plastic over the windows to prevent heat from escaping.

6. In February 2006, Petitioner obtained a quote from Hanson's in the amount of \$8322.00 to replace the wooden windows with vinyl windows.

7. In the spring, the windows became infested with insects.

8. At a March 2007 meeting of the Commission, the Petitioner made a request to replace the wooden windows with vinyl windows and presented the Hanson's estimate. He was told that he should obtain estimates to repair the wooden windows as the Commission did not favor vinyl replacement windows. It was suggested that he contact Turner Restoration for a quote.

9. On April 5, 2007 the Commission received Petitioner's written application for a Certificate of Approval to replace the wood windows with vinyl windows. With that application were quotes from Turner Restoration, Home Depot and Hanson's in the amounts of \$17,989.60, \$14,704.00 and \$8322.00, respectively.

10. The Commission met on April 10, 2007. The Petitioner did not attend the meeting. The Commission voted to deny the application for vinyl windows.

11. Madhu Oberoi directed her secretary to mail a copy of the denial to Petitioner's Cherokee Street address via first class mail.

12. Petitioner did not receive a copy of the denial.

13. On April 16, 2007 the Petitioner observed the "Agenda Notice" from the April 10, 2007 Commission meeting at its website. He misread the Agenda and believed a Certificate of Approval had been issued for his application.

14. On April 16, 2007 Petitioner contacted Hanson's for installation of the vinyl windows.

15. On April 27, 2007 Hanson's received a permit from the City of Pontiac Office of Building and Safety.

16. The installation of the vinyl windows was completed on May 5, 2007.

17. Shortly after June 21, 2007 Petitioner received the Commission's June 21, 2007 Order to remove the vinyl windows, a copy of the April 10, 2007 denial letter and a copy of the Secretary of the Interior's Standards for Rehabilitation.

18. Petitioner is no longer in possession of the wooden windows.

#### **Conclusions of Law**

As indicated above, Section 5 (2) of the LHDA allows persons aggrieved by decisions of commissions to appeal to the Board. Section 5 (2) also provides

that the Board may affirm, modify or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. Relief should, of course, be granted where a commission has, among other things, acted in an arbitrary or capricious manner, exceeded its legal authority, or committed some other substantial and material error of law. Conversely, when a commission has reached a correct decision, relief should not be granted.

The Petitioner first argues that the denial by the Commission was arbitrary and capricious.

In Bundo v City of Walled Lake, 395 Mich 679; 238 NW2d 154 (1976), the Michigan Supreme Court adopted definitions of "arbitrary" and "capricious" for purposes of Michigan law, stating as follows:

"The words 'arbitrary' and 'capricious' have generally accepted meanings. The United States Supreme court has defined the terms as follows: Arbitrary is: "[W]ithout adequate determining principle ... Fixed or arrived at through an exercise of will or by caprice, without consideration or adjustment with reference to principles, circumstances, or significance, ... decisive but unreasonable." Capricious is "[A]pt to change suddenly; freakish, whimsical; humorsome." 395 Mich at 703, n. 17.

The evidentiary record does not reflect that the Commission engaged in arbitrary or capricious conduct. In this case, the criteria a Commission must apply to Petitioner's application for are set forth in Section 5 (3) of the LHDA. The pertinent provisions read as follows:

Sec. 5. \* \* \*

(3) In reviewing plans, the commission shall follow the U.S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the bureau. The commission shall also consider all of the following: (Emphasis added.)

(a) The historic or architectural value and significance of the resource and its relationship to the historic valued of the surrounding area.

(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.

(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.

(d) Other factors, such as aesthetic value, that the commission finds relevant.

In order to follow the proscriptions of the Act, a commission must apply Standards 2 and 5 of the Standards for Rehabilitation of Historic Proprieties promulgated by the U.S. Secretary of the Interior, 36 CFR 67.7 Standards 2 and 5 provide that:

(2) The historic character of a property will be retained and preserved.  
The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

\* \* \*

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(Emphasis added.)

It is also instructive to note certain guidelines that the U. S. Secretary of the Interior has adopted to implement historic preservation standards. The federal guidelines which govern restorations of exterior windows indicate as follows:

#### **Building Exterior Windows**

##### **Recommended**

Identifying, retaining, and preserving windows-and their functional and decorative features-that are important in defining the overall historic character of the building. Such features can include frames, sash, muntins, glazing, sills, heads, hoodmolds, paneled or decorated jambs and molding and interior and exterior shutters and blinds.

\* \* \*

Repairing window frames and sash by patching, splicing, consolidating or otherwise reinforcing. Such repair may also include replacement in kind—or with compatible substitute material—of those parts that are either extensively deteriorated or are missing when there are surviving prototypes such as

architraves, hoodmolds, sash, sills, and interior or exterior shutters and blinds.

(Emphases added.)

Repairing in kind an entire window that is too deteriorated to repair using the same sash and pane configuration and other design details.

### **Not Recommended**

Removing or radically changing windows which are important in defining the historic character of the building so that, as a result, the character is diminished.

Changing the number, location, size or glazing pattern of windows, through cutting new openings, blocking-in windows, and installing replacement sash that do not fit the historic window opening.

Changing the historic appearance of windows through the use of inappropriate designs, materials.

\* \* \*

Stripping windows of historic material such as wood, case iron, and bronze.

\* \* \*

Retrofitting or replacing windows rather than maintaining the sash, frame, and glazing.

Failing to undertake adequate measures to assure the protection of historic-windows.

\* \* \*



Using substitute material for the replacement part that does not convey this visual appearance of the surviving parts of the window or that is physically or chemically incompatible.

Removing a character-defining window that is unreparable and blocking it in; or replacing it with a new window that does not convey the same visual appearance.

(Emphases and bolding added.)

The Commission considered Petitioner's application for approval of the April 10, 2007 meeting and applied the criteria set forth above. It had not approved the replacement of wood windows with vinyl windows after Seminole Hills became a historic district in 1987. The Petitioner has not demonstrated that the denial was arbitrary and capricious.

Petitioner next asserts that there is no factual or legal basis for the denial. The "before" and "after" photographs of the windows, from street distance, show no differences in the design, texture or grain of the wood and vinyl windows. However, wood and vinyl are not the same materials and differ in appearance and texture upon close inspection. The standards and guidelines stated above set forth the guidelines the Commission must follow. Wood for window frames was a distinctive material original to the house. Vinyl was not. There was both a legal and factual basis for denying the application.

The Petitioner also argues that he did not have proper legal notice that his Application for Certificate of Approval had been denied.

There is a rebuttable presumption that mail properly stamped, addressed, and deposited in the U.S. mail is delivered to the addressee in a timely manner. *Stacey v Sankovich*, 19 Mich App 688, 694; 173 NW2d 225 (1969); *Merchants National Bank v Detroit Trust Co*, 258 Mich 526, 534; 242 NW 739 (1932).

Because the Commission did not offer the testimony of the person who allegedly mailed the denial, and no written proof of mailing was offered, the Petitioner's testimony regarding non-receipt stands unrebutted.

However, while there was no actual receipt of the denial, the Petitioner was obligated to determine the status of his application. He was aware that a meeting of the Commission was to be held on April 10, 2007 and that his application would then be considered. He did not attend the meeting or have someone attend in his place. Although aware that the Commission did not favor the replacement of wooden windows with vinyl windows, he did not contact Ms. Oberoi regarding his application although he had not received a Certification of Approval. He misread the agenda of the Commission's April 10, 2007 meeting to mean his application had been approved although it merely indicated that the application was an item to be considered. On this slim basis, he contracted with Hanson's to remove the wooden windows and install vinyl replacements. The Petitioner was under an obligation to do more than rely on a meeting agenda before acting without the Commission's approval.

Finally, Petitioner points out that the Secretary's Standards are to be "applied to projects in a reasonable manner, taking into consideration economic and technical feasibility."

Petitioner does not assert that it was not technically feasible to repair the wooden windows or repair them with new wooden windows. He offered no specific evidence of his financial condition so it cannot be determined that Turner's estimate of repairing wood for wood was not economically feasible. He presented no estimates of the cost of repairing the wooden windows. Petitioner has not sustained his burden of proving that it was not technically or economically feasible to repair the wooden windows or replace them with new wooden windows.

The findings which mitigate in the Petitioner's favor are that Hanson's was able to obtain a permit from the City to remove the wooden windows and replace them with vinyl windows and that he is no longer in a possession of the wooden windows. Because this permit was obtained and the work was done, in part, in reliance thereon it would be unconscionable to now require him to remove the vinyl windows and install new wooden windows.

### **CONCLUSION**

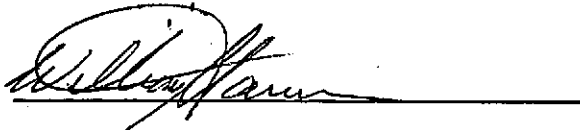
In consideration of the hearing record on its totality, it is concluded that Petitioner has failed to show: 1) the Commission's denial was arbitrary and capricious, 2) the Commission's denial was without basis in fact or law, 3) that Petitioner lacked notice that his application had been denied or 4) that it was not technically or economically feasible to repair the wooden windows or replace them with new wooden windows.

**RECOMMENDATION**

It is recommended that the appeal be modified with the Order Denying the Application affirmed and the Board exercise its discretion and rescind the order to remove the vinyl windows.

**EXCEPTIONS**

If a party chooses to file Exceptions to this Recommended Decision, they must be filed within 15 days after this Recommended Decision is issued. If an opposing party chooses to file a Response to the Exceptions, it must be filed within 10 days after the Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the State Historic Preservation Review Board, by submission to the Michigan Department of History, Arts and Libraries, Office of Regulatory Affairs, P.O. Box 30738, Lansing, Michigan 48909, Attention: Nicholas L. Bozen.

Dated: 11/29/07

**William J. Farmer**  
**Administrative Law Judge**  
**State Office of Administrative Hearings and Rules**

STATE OF MICHIGAN  
MICHIGAN DEPARTMENT OF HISTORY, ARTS AND LIBRARIES  
STATE HISTORIC PRESERVATION REVIEW BOARD

MENDELSSOHN AUGUSTE,

Petitioner,

v

PONTIAC HISTORIC DISTRICT COMMISSION,

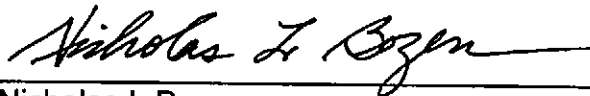
Respondent.

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HALFile No. 07-044-HP  
SOAHR Docket No. 2007-1040

PROOF OF SERVICE

I hereby certify that a copy of the foregoing Final Decision and Order was served upon all of the named parties in this matter, their attorneys of record, and other appropriate State of Michigan officials and employees, by inter-departmental mail to those persons employed by the State of Michigan and by first class United States mail and/or certified mail, return receipt requested, to all others at their respective addresses noted below, as disclosed by the official case record, on January 28, 2008.



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Regulatory Affairs Director  
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